

A4R
8. L33
v. 8/9
Copy 3



South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 8

March 12, 1991

No. 9

CONTENTS

House Week in Review.....	2
Budget Blues State by State.....	4
Bills Introduced.....	8

S. C. STATE LIBRARY

MAR 15 1991

STATE DOCUMENTS

Printed by the Legislative Council

OFFICE OF RESEARCH

Room 324, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803)734-3230

Legislative Update, March 12, 1991

House Week in Review

The House of Representatives returns early this week to take up H.3650, the General Appropriation bill, set for special order consideration. Debate on the budget begins Monday at 2 p.m.

Faced with a week of budget discussions, the House spent most of last week cleaning up the House calendar. Among the bills given both second and third reading last week were H.3041, a bill which would prohibit the installation of security devices in rental property that would inhibit occupants from escaping in case of fire. This legislation now goes to the Senate for consideration.

New technology got the attention of the House last week as the legislators gave final approval to two bills, one dealing with FAX machines, the other with automatically dialed announcing devices. H.3176 would prohibit the use of FAX machines to transmit unsolicited advertising. Also receiving third reading was H.3140, which would prohibit the use of automatically dialed announcing devices in telephone promotions.

A bill that would prohibit the copying of credit card numbers when the cards are presented for check identification also received third reading last week by the House. This bill, H.3183, now goes to the Senate for consideration.

The motor vehicle inspection bill (H.3092) also was given a third reading by the House and sent to the Senate. But before that was accomplished, a move was made to reconsider the vote whereby the bill received a second reading. The House tabled that motion by a 56-41 vote and proceeded to give the legislation final approval.

Two important Labor, Commerce and Industry Committee bills were enrolled for ratification last week. H.3421, dealing with the qualifications of real estate appraisers, was enrolled for ratification, as was the National Association of Insurance Commissioners (NAIC) Accreditation legislation (H.3508).

Legislative Update, March 12, 1991

The House also set March 20 as the date the General Assembly would meet in joint session to elect a member to the state Public Service Commission from the 6th District. Also two House members, Reps. Kirsh and Whipper, were elected by their colleagues to serve on the Legislative Audit Council nominating committee.

Among the bills receiving second reading in the House last week were S.654 and H.3385. S.654 would require higher education instructors to be fluent in English, and H.3385, would prohibit anyone from changing the appearance of automobile license tags. However, before the license tag legislation was given second reading, the House amended the bill to allow decals to be placed on the tags as long as they did not obscure any letters or numbers.

H.3463, a bill to exempt motion picture companies and equipment from certain state tax requirements, appears headed for a conference committee after both the Senate and House amended the bill to include certain sales tax exemptions. When the House received the bill back from the Senate last week, the original sales tax exemption for movie equipment, supplies and electricity had been broadened to include exemptions for electricity used in the production of several agriculture-related enterprises. The House further amended these sales tax exemptions to include other items, such as power used in peach, apple, silviculture, agriculture and aquaculture production, the production of hardwood caskets, and the retail sale of food. The bill is now headed for a House-Senate conference committee.

Legislative Update, March 12, 1991

Budget Blues State by State

This week the House of Representatives undertakes consideration of H.3650, the 1991-92 State Appropriations bill. As austere as the budget outlook is for the state, South Carolina is not alone in this worry. In a special report entitled *Leaders' Outlook 1991 Top Priorities for State Legislatures*, the National Conference of State Legislatures reports that fiscal austerity and taxes are the top priorities of most legislative leaders from across the nation.

Based on a post election survey of state legislative leaders, NCSL found that budgeting and tax reform in a slumping economy are the foremost legislative concerns for 1991 session. According to the NCSL special report, "in two-thirds of the states, legislative leaders responding to the survey expect unusual difficulty in balancing the state budget for the current fiscal year (1991) and the following fiscal year (1992)."

The following are excerpts from the NCSL special report.

Priority One: Fiscal Austerity and Taxes

Most state legislatures will be absorbed during 1991 with "fundamentals," as characterized by one legislative leaders, of budget balancing and taxes. Basic fiscal management dominates the agenda in so many states because their economies are slowing, state revenues and reserves are falling, and unemployment is rising, while some major expenditures continue to grow, especially for Medicaid, corrections and education.

A. Leaders in more than half the states cite budget problems as one of their top three concerns for 1991.

Legislative leaders in two-thirds of the states anticipate budget

Source: NCSL *Leaders' Outlook 1991*, January, 1991.

Legislative Update, March 12, 1991

austerity measures in 1991, and severe problems in more than half the states will make budget balancing the top priority. Here's a sample of the budgetary problems leaders have reported. These are among the most serious problems individual states face, but are representative of the fiscal problems presently being encountered.

Arizona: Revenues are falling, even after three years of tax increases designed to meet structural problems in the state tax system.

California: The state faces a revenue shortfall that may reach \$1 billion in fiscal year 1991, and a shortfall of up to \$5.9 billion in fiscal year 1992.

Connecticut: According to some reports, the state's accumulated deficit at the end of fiscal year 1992 will be equal to 30 percent of the general fund.

Florida: Florida's usual immunity to national economic downturns has vanished. After a major tax increase in 1990, intended to maintain the current level of expenditures, the state is facing a revenue shortfall that may be as high as \$1.4 billion.

Missouri: Revenue is dropping, and the current budget has been cut by \$170 million; revenue is likely to be down \$200 million or \$300 million in fiscal year 1992.

Minnesota: A \$1 billion shortfall is possible in the next biennium, which would require budget cuts, the exhaustion of reserves and tax increases.

New York: The revenue shortfall for this fiscal year is approaching \$1 billion, after a \$1.25 billion tax increase earlier in 1990, and the fiscal year 1992 shortfall has been estimated at \$3 billion.

Pennsylvania: Pennsylvania faces a \$1.5 billion shortfall. The governor is opposed to tax increases and recommends only cutting spending.

Texas: Even with higher energy prices contributing to the state economy, the state is facing at least a \$3.5 billion shortfall in the next biennium.

Wisconsin: Recession is putting pressure on current levels of spending.

Source: NCSL Leaders' Outlook 1991, January 1991.

Legislative Update, March 12, 1991

Why are things so bad?

The slowing of national economic growth has an immediate impact on state sales tax and personal income tax collections. The great disadvantage of these two taxes is that their rate of growth slows abruptly when the economy turns sour, because personal income growth slows or stops and people spend less. Current state experience bears this out. Personal income taxes, sales taxes, and corporation income taxes, in most states, are below the levels they were expected to reach, although in most states collection from personal income taxes and sales taxes remain above last year's figures.

According to figures NCSL collected in early December 1990, revenues in 25 states are more than 1 percent below the budgeted level for fiscal year 1991. In 15 states and Puerto Rico, revenues are at about the projected level, and 10 states report revenue more than 1 percent above what they originally projected.

Low state reserves worsen the budgetary impact of weak tax collections. As a percent of general fund expenditures, state balances in July 1990 were at their lowest level since the end of recessionary fiscal year 1983. A quarter of the states entered the fiscal year with total balances below 1 percent of general revenue, far below the amount recommended even for periods of economic growth. The combination of low reserves and weak tax collections virtually guarantees the kind of fiscal stress state leaders are now identifying.

B. Tax restructuring also will be a fiscal priority in many states.

While several leaders who were interviewed see revenue increases as the tax issue in 1991, a larger number are concerned with restructuring the tax system, particularly the property tax system. First, however, there are examples of the revenue issues leaders raised.

New Hampshire will consider broadening the base of its business profits tax to increase revenue.

Tennessee will consider alternative ways to fund a potentially expensive K-12 reform package. One possibility is a personal income tax which the governor has said is the best way to fund reform, though he stopped short of endorsing such a tax. Another possibility is expansion of the sales tax bases to services.

Texas may change its corporation franchise tax (now a percentage of corporate equity) to something like a corporation income tax.

Source: NCSL Leaders' Outlook 1991, January 1991.

Legislative Update, March 12, 1991

Oregon may be forced to adopt a sales tax in the wake of a remarkable constitutional amendment that will substantially reduce property tax support for schools over 10 years and requires that state government make up the local property tax revenue.

Louisiana will again have to decide whether to continue the suspension of certain sales tax exemptions, notably of groceries and utilities. Though both are nominally exempt from sales tax, the state's continuing fiscal crisis has led to annual suspension of the exemptions for a number of years. This issue helps to return a variety of tax proposals to the legislative agenda each year.

Besides those possibilities, various observers outside legislatures expect taxes to be high on the agenda in a number of other states, although the legislative leaders surveyed did not identify tax increases as a priority. On the basis of fiscal conditions, leading candidates for tax increases include Pennsylvania, Michigan, North Carolina, California and Florida. Each of the six New England states is a candidate for tax increases, and New York may be as well, considering its potential \$3 billion deficit for fiscal year 1992. In some states whose general condition is reasonably sound (like Tennessee), pressures for education reform may lead to substantial tax increases like those Nebraska and Oklahoma adopted in 1990.

Source: NCSL Leaders' Outlook 1991, January 1991.

Legislative Update, March 12, 1991

Bills Introduced

The following bills were introduced in the House of Representatives last week. Not all the bills introduced in the House are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Pet Shops and Pet Dealers (H.3656, Rep. Jimmy Bailey). Under this legislation, pet dealers and pet shop owners would be required to furnish to pet buyers a statement from a licensed veterinarian stating that the animal being purchased is free of disease and deformity. If the dealer or owner fails to provide the statement, the buyer may return the animal and receive a refund within 12 months of the sale. Those refusing to give the refund would face a penalty of refunding three times the amount of the payment, plus attorneys' fees and court costs, if the buyer brings an action against him.

Cease Operation of Pinewood Landfill (H.3664, Rep. McElveen). This joint resolution would direct the Department of Health and Environmental Control to order Laidlaw Environmental Services to cease the operation of the Pinewood landfill facility until a complete inspection of the hazardous waste facility can be made to determine if a leak exists, if environmental damage has occurred, and what repairs are necessary. This legislation was filed after reports surfaced that a 60 foot berm at the landfill facility had collapsed and the protective plastic liner had ruptured.

Environmentally Safe Highway Fill Material (H.3670, Rep. Meacham). This legislation would require that the State Highway Department determine whether fill material to be used in the construction or repair of highways or drainage areas is environmentally safe. Once the determination has been made that the fill material is safe, it could be used, under this legislation, but the entire area must be covered immediately.

Legislative Update, March 12, 1991

Education and Public Works

Prohibitions of Radar Detectors (H.3637, Rep. Wright). This bill would make it unlawful to use a radar detector in a motor vehicle in South Carolina. Violations would result in a fine of not less than \$25 nor more than \$100, and would not constitute a criminal offense. No custodial arrest could be made in connection with a violation, except for failure to appear in court or for failure to pay the imposed fine. Secondary enforcement would be used, although a citation could be written in connection with a license and registration checkpoint.

A radar detector connected to a power source and in operable condition would be presumptive evidence of a violation. This could be rebutted only by credible and reliable evidence that shows the detector was not in use. This legislation could not be construed to allow the seizing or forfeiting of the detector, unless otherwise provided by law.

Judiciary

Increase Magistrates' Jurisdiction (H.3639, Rep. Huff). Under this bill, the exclusive jurisdiction of magistrates in criminal offenses would be expanded to include offenses punishable by a fine of \$200 and/or imprisonment for 30 days. Currently, the jurisdiction of magistrates is limited to offenses with fines of \$100 or less or jail time of 30 days.

Increase Penalties for Robbing Cabbies (H.3640, Rep. Joe Brown). The penalty for robbing a cabbie would be increased if this legislation is enacted. Currently, the punishment for robbing a cabbie (or technically known as an operator of motor vehicles for hire) is 5 to 25 years. Under this bill, the jail time for this felony would be increased to 15 to 25 years, and no part of the sentence could be suspended. Additionally, any adult convicted of this crime would not be eligible for parole until he had served 15 years of the sentence. The Youthful Offender Act would not apply to this crime when imposing sentences.

Human Life Protection Act (H.3652, Rep. Beasley). This legislation would ban abortions in South Carolina under any circumstances except to save the life of the mother. If the abortion is performed, the doctor would have to record in the woman's medical records, either before or after the abortion, the basis for his medical judgment.

Legislative Update, March 12, 1991

This legislation would establish the legislative finding that the life of a human being starts at conception and that prosecution for illegal abortions should be directed at those performing the abortion, not the woman involved. The penalty for performing an illegal abortion would be increased from the current 2 to 5 year sentence to a sentence of 4 to 10 years. The fine also would be increased from \$5,000 to \$10,000. The current provision making it a misdemeanor for a woman to have an abortion would be eliminated by this bill.

Extradition for Bad Checks (H.3657, Rep. Burch). Under this bill, a fugitive could be extradited for crimes involving fraudulent or dishonored checks.

Child Support from Tax Refunds (H.3669, Rep. Wofford). This bill would authorize the state Department of Social Services to receive the state and federal income tax refunds of a parent delinquent in their child support payments, even if the parent is in compliance with a court order to make periodic payments toward the satisfaction of the delinquent payments.

Bottle Rockets (S.189, Sen. Giese). Bottle rocket fireworks with half inch motors and a stabilizing stick of at least 15 inches could not be sold in South Carolina if this legislation is enacted. Bottle rockets whose total pyrotechnic composition does not exceed 20 grams in weight could only be stored in South Carolina.

Money to File or Withdraw from a Race (S.359, Sen. Passailaigue). This legislation would make it illegal for a candidate to be offered or to accept money to file for an elective office or to withdraw from a race, whether the office in question is on the state or federal level. Violation of this provision would be punishable by a fine of not more than \$10,000 or a year in jail.

Labor, Commerce and Industry

ABC License (H.3644, Rep. Waites). The ABC Commission would be required to notify local law enforcement authorities, as well as the local legislative delegation, when application is made for the establishment or renewal of an ABC license, if this legislation is enacted.

Legislative Update, March 12, 1991

Bathrooms in Businesses (H.3646, Rep. Cromer). Under this legislation, retailers would have to allow their restrooms to be used by customers or prospective customers.

Medical, Military, Public and Municipal Affairs

Social Security Numbers and Birth Certificates (S.441, Sen. Rose). This bill would require that all birth certificates include the social security numbers of the child's mother and father, if known. However, this information would not determine paternity.

Ways and Means

Local Option Sales Tax Referendum (H.3666, Rep. Quinn). This bill would eliminate the authority of the county governing body to call for additional referenda on the local option sales tax. Instead, the question of whether the local option sales tax should come before the county voters in another referendum could be initiated by petition only. This bill calls for the referendum to be initiated by a petition of 15 percent of the qualified voters of the county. The petition would be presented to the county governing body, which would conduct the referendum on the imposition of the sales tax. In addition, the frequency of the referendum would be changed from once every 12 months to once every 24 months, and could be held on election day during a general election year only.

Ad Valorem Tax Exemption (H.3659, Rep. Houck). This proposed constitutional amendment would establish that the ad valorem property tax exemption enjoyed by schools, colleges, charitable hospitals, and charitable institutions caring for the handicapped, elderly, children or indigent people does not extend beyond the buildings and premises actually occupied by the institution. This proposed amendment would have to be approved by the voters in a statewide referendum during the next general election, if enacted.

Cigarette Tax Increase and Medicaid Funding (H.3660, Rep. Carnell). Under this legislation, a 2.5 mill user fee on cigarettes would be established with the proceeds going to the Medicaid Health Care Fund, administered by the Health and Human Service Finance Commission. This funding would be used only as state matching money for federal Medicaid funds.

Legislative Update, March 12, 1991

The bill notes that South Carolina has one of the lowest cigarette taxes in the country, and that "numerous citizens receiving benefits under the state Medicaid program are smokers."

Without Reference

English Fluency in Higher Education (S.654, Senate Education Committee). This legislation would require each public institution of higher learning to have a policy that insures that the instructional faculty has adequate proficiency in both written and spoken English. This requirement would apply to every instructor whose first language is not English, including graduate assistants, who teach one or more undergraduate credit courses. The bill also would require the establishment of a student grievance procedure regarding an instructor not able to speak or write the English language. The number of student grievances would be reported annually to the state Commission on Higher Education and the Senate and House Education Committees.